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January 9, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Basic Service Tier Encryption*, MB Docket No. 11-169

Dear Secretary Dortch:

On January 6, 2012 the undersigned accompanied Mitsuko Herrera, Cable Communications Administrator for Montgomery County, Maryland and Michael Lynch, Director, Office of Cable, Video & OTC/M.I.S for the City of Boston, Massachusetts for a series of ex parte meetings in the above-captioned matter. The three of us met with Jessica Almond, Acting Legal Advisor for Media to Chairman Genachowski and Erin McGrath, Acting Legal Advisor for Media to Commissioner McDowell. In addition, we met with the following members of the Media Bureau:

- William Lake
- Steven Broeckaert
- John Gabrysch
- Brendan Murray
- Alison Neplokh

Our conversations were guided by the attached outline, and liberal references were made to filings made by the two communities in this proceeding. Links to those filings are: [Boston Reply Comments](#), [Montgomery County Comments](#), and [Boston Comments](#). In addition, the communities called to the staff's attention the filing of [Frank Dobbelaere](#), an individual consumer who outlined the challenges faced by a HDTV consumer with encryption.



Due to scheduling conflicts, we were not able to meet with David Grimaldi, Legal Adviser for Media to Commissioner Clyburn, but a copy of this ex parte notice is being shared with Mr. Grimaldi by email.

Sincerely,



Gerard Lavery Lederer
for BEST BEST & KRIEGER LLP

cc: Jessica Almond
Erin McGrath
William Lake
Steven Broeckaert
John Gabrysch
Brendan Murray
Alison Neplokh
David Grimaldi
Mitsuko Herrera
Michael Lynch



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Outline Of Presentation

Montgomery County / City of Boston

Basic Service Tier Encryption, MB Docket No. 11-169

- I. Allowing cable operators to encrypt benefits cable operators, but has potential for substantial costs to consumers.
- II. Commission must ensure that consumers are kept whole.
 - A. Cable operators should not be permitted to undercut negotiated senior discount and lifeline services negotiated in local franchises.
 - B. The NPRM may be underestimating impacted consumers and is silent on Institutional Users (schools, government buildings, hospitals etc.). Commission should ensure changes do not result in raised costs for Institutional Users.
- III. Commission should ensure that consumer protection is not severable from cable relief.
 - A. Cable comments make clear that while relief will be accepted, any obligations may be subject to judicial challenge.
 - B. Commission must ensure that solutions cause no harm.
 - 1. E.g., Operators cannot make PEG operators pay for encryption
- IV. Encryption further makes case for the need for a competitive customer equipment market.